



11-07-05

JFW

26444

Express Mail No. EV 346 794 282 US

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: E. MILLER et al.

Confirmation No. 4511

Application No.: 09/972,342

Group Art Unit: 2644

Filing Date: October 6, 2001

Examiner: Con P. Tran

For: INFORMATION SYSTEM USING EYEWEAR  
FOR COMMUNICATION

Atty. Docket No.: 90747-4600

**RESPONSE TO OFFICE COMMUNICATION**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Applicants received an office communication dated October 27, 2005 which alleges that applicants' response of September 6, 2005 is non-compliant due to the inclusion of an allegedly improperly identified drawing figure. This communication is improper and was apparently sent by a legal instruments examiner who did not take the time to even look at applicants' response. In that response, the footnote on page 6 clearly explains that the drawing figure that was submitted is a copy of a figure from an issued patent that identifies the technical anatomic terms describing external ear anatomy that are used in the present application. It is clear in the response that the submitted drawing has nothing to do with the drawings filed with the present application.

Furthermore, even a cursory review of the currently pending drawings in this application would have revealed that the submitted drawing has no relation to those that were already filed. As there is no discussion in the amendment of substituting or amending the drawings, there is no apparent confusion or other reason that would justify the mailing of a request to identify the drawing as noted in the communication.

Accordingly, applicants requests withdrawal both of the prior communication and of any alleged delay in responding to the prior office action attributed to the applicants.

Applicants further request that the patent office time for replying to applicants' response should be calculated from the September 6, 2005 date that applicants' response was timely and properly filed.

Respectfully submitted,

Date: 11/4/05

  
\_\_\_\_\_  
Allan A. Fanucci (Reg. No. 30,256)

**WINSTON & STRAWN LLP  
CUSTOMER NO. 28765  
(212) 294-3311**